

February 26, 2004

ENERGY & ENVIRONMENT
COMMITTEE
REPORT NO. 2

ALL MEMBERS PRESENT EXCEPT LEGISLATOR RANZENHOFER. CHAIRMAN HOLT
PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, that the following items are hereby received and filed.
 - a. Item Page -2003 (Intro. 8-13)
LARSON, SWANICK, RENZENHOFER, FALKNER & CUSACK: Requesting NYS
Broaden the definition of "Beverage" for Purposes of Deposit.
(4-0) Legislator Ranzenhofer absent.
 - b. Item Page -2004 (Comm. 5D-3)
DEP: ECSD No. 3 – Increase & Improvement of Facilities – Notice of Public Hearing.
(4-0) Legislator Ranzenhofer absent.
 - c. Item Page -2004 (Com. 5E-31)
COUNTY EXECUTIVE: ECSD No. 3 – A/E Agreement Dated 1/13/04 Engineering
Change Order No. 1 - Malcolm Pirnie.
(4-0) Legislator Ranzenhofer absent.
 - d. Item Page -2004 (Comm. 5M-2)
NYS DORMITORY AUTHORITY: SEQR – Negative Declaration Notice for Canisius
College Dormitory Project.
(4-0) Legislator Ranzenhofer absent.
 - e. Item Page -2004 (Comm. 5M-5)
NYS DEPARTMENT OF AGRICULTURE & MARKETS: Revised Copy of
Agricultural Districts Law.
(4-0) Legislator Ranzenhofer absent.

AS AMENDED

2. Item Page -2003 (Comm. 20E-41)
COUNTY EXECUTIVE

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 5-A of the County Law, including approving orders of the State Comptroller, County Sewer District No.3 of the County of Erie, New York, has heretofore been established and created on April 9, 1963 (the "District") to provide sewer services to the Village of Orchard Park, most of the Town of Orchard Park, and parts of the Towns of West Seneca and Hamburg; and

WHEREAS, since the 1970s extensions to the District known as the Boston Valley, Armor-McKinley, Blasdell and Holland Extensions were formed; and

WHEREAS, the District and all extensions thereof were consolidated in 2003; and

WHEREAS, the Board of Managers of the District has duly directed that there be prepared a report and estimate of cost by the County Engineers (Erie County Department of Environment and Planning) relating to a proposed increase and improvement of the facilities of the District which report and estimate of cost have been approved by the Board of Managers of the District on December 10, 2003 and filed with the County Legislature pursuant to Section 268 of the County Law; and

WHEREAS, said report and estimate of cost describe a proposed increase and improvement of the facilities of the District, consisting of the reconstruction and/or replacement of approximately 24,500 linear feet of sewer, various pump station upgrades and reconstruction; and the installation and acquisition of process equipment, pumps, meters, controls, lab equipment, and plant reconstruction, as more fully described in the report and estimate of cost hereinbefore referred to; and

WHEREAS, the maximum estimated cost of the aforesaid increase and improvement of the facilities of the District is \$5,000,000, to be apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewered units in the District, (ii) applicable flat charges, and (iii) assessments against a benefited area which consists of the entire area of said Sewer District No. 3; and

WHEREAS, pursuant to Section 258 of the County Law, as amended by Chapter 397 of the Laws of 1995, the consent of the State Comptroller is not required prior to the construction of said increase and improvement of facilities of the District because the cost thereof to the Typical Property (as defined in the County Law) does not exceed the Average Estimated Cost to the Typical Properties for similar types of expenditures, as computed by the State Comptroller and such cost is \$8.00 for the Town of Hamburg, \$9.35 for the Town of Orchard Park, \$8.40 for the Town of West Seneca, \$6.40 for the Town of Holland, \$9.98 for the Town of Elma, \$9.00 for the Town of Boston, and \$8.55 for the Town of Eden; and

WHEREAS, it is now desired to call a public hearing to consider said increase and improvement in accordance with the provisions of Section 254 of the County Law;

NOW, THEREFORE, BE IT

RESOLVED, BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. A meeting of the County Legislature of the County of Erie, New York, shall be held at 92 Franklin Street, 2nd Floor, Part 6, Buffalo, New York, in said County, on the 1ST day of April 2004, at 1:30 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon the aforesaid proposed increase and improvement of facilities of Erie County Sewer District No.3 in said County, and for such other action on the part of said County Legislature in relation thereto as may be required by law or proper in the premises.

Section 2. The notice of such public hearing shall be in substantially the following form, to-wit:

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that a meeting of the County Legislature of the County of Erie, New York, shall be held at 92 Franklin Street, 2nd Floor, Part 6, Buffalo, New York, in said County, on the 1st day of April 2004, at 1:30 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon a proposed increase and improvement of facilities of Erie County Sewer District No. 3 in said County.

The increase and improvement of such facilities consisting of the reconstruction and/or replacement of approximately 24,500 linear feet of sewer, various pump station upgrades and reconstruction; and the installation and acquisition of process equipment, pumps, meters, controls, lab equipment, as more fully described in the report and estimate of cost prepared by the County Engineers (Erie County Department of Environment and Planning) which has been filed with the County Legislature and which has been approved by the Board of Managers of Erie County Sewer District No. 3 on December 10, 2003 (the "Report").

The maximum estimated cost of the aforesaid increase and improvement of the facilities of the District is \$5,000,000, to be apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewered units in the District, (ii) applicable flat charges, and (iii) assessments against a benefited area which consists of the entire area of said Sewer District No. 3.

The expenditures for such additional increase and improvement of facilities will not cause additional costs for property owners in the District for hook-up fees, and the annual cost of such expenditures to the Typical Property (as defined in the County Law) is \$8.00 for the Town of Hamburg, \$9.35 for the Town of Orchard Park, \$8.40 for the Town of West Seneca, \$6.40 for the Town of Holland, \$9.98 for the Town of Elma, \$9.00 for the Town of Boston, and \$8.55 for the Town of Eden. The County Legislature has heretofore caused to be prepared and filed for public inspection with the Clerk of the Erie County Legislature, a detailed explanation of how such costs were computed, as incorporated in said report and estimate of cost prepared by the County Engineers (Erie County Department of Environment and Planning).

Section 3. The Clerk of said County Legislature is hereby authorized and directed to cause a copy of the Notice of Public Hearing as set forth in Section 2 hereof to be published once in the "Hamburg Sun" and in the "Front Page", the official newspapers of said County, not less than ten nor more than twenty days before the date set herein for said public hearing.

The Clerk is hereby further authorized and directed to file a certified copy of the Notice of Public Hearing with the Comptroller of the State of New York on or about the date of the publication of the Notice of Public Hearing.

Section 4. This resolution shall take effect immediately.

(4-0) Legislator Ranzenhofer absent.

3.	Item	Page	-2004	(Comm. 5E-18)
	COUNTY EXECUTIVE			

WHEREAS, the County of Erie has previously entered into a contract with the Erie County Soil and Water Conservation District who have the necessary expertise and personnel to perform the necessary inspections, evaluations and carry out administrative responsibilities related to the delivery of the project (Stream Bank Maintenance Program), and

WHEREAS, it has become necessary to increase the County-wide Stream Maintenance Program to continue to reduce erosion and localized flood related risk to roads, bridges, culverts and rights-of-way by removing gravel bars and vegetative debris obstructing or diverting natural flow of streams, and

WHEREAS, Article 5-G of the General Municipal Law authorizes municipalities and districts to contract to perform together that which each public entity is authorized to perform individually; and Article 5, Section 99-R of the same General Municipal Law authorizes Erie County and the District to contract by direct negotiations for services of government not regularly provided to the public as part of general government services, and

WHEREAS, the Legislative Body of Erie County and the Board of Directors of the Erie County Soil and Water Conservation District have previously authorized a municipal agreement on May 10, 2001 at Meeting Number 11, Communication Number 9E-34, for the purpose of performing a County-wide Stream Maintenance Program.

NOW, THEREFORE, BE IT

RESOLVED, that the Agreement between the County of Erie and the Erie County Soil and Water Conservation District be increased by an amount of \$20,000 to be allocated from the 2000 Flood Damage Program (SFG 420 -177) and added to the original (\$100,000) Stream Bank Protection Program, for work to reduce erosion and localized flooding related risk to roads, bridges, culverts, and rights-of-way at various locations, and be it further

RESOLVED, that the Clerk of the County Legislature be instructed to forward three (3) certified copies of this resolution to the Deputy Commissioner, Highways and one certified copy each to the Commissioner of Public Works and to the Erie County Comptroller.
(4-0) Legislator Ranzenhofer absent.

4. Item Page -2004 (Comm. 5E-21)
 COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature had awarded Contract No. 58PS to Kandey Company, Inc. for the Erie County Sewer District Nos. 2, 4 & 6 Pumping Stations Structural/Cathodic Protection Rehabilitation Project; and

WHEREAS, the Erie County Division of Sewerage Management has advised the Legislature that all scheduled improvements are now completed; and

WHEREAS, the Erie County Department of Environment and Planning has recommended the acceptance of Contract No.58PS in the final contract amount of \$338,258.45 which includes Change Order No. 3 (final) a decrease of \$8,741.55, and approval for final payment.

NOW, THEREFORE, BE IT

RESOLVED, that Contract No. 58PS between the County of Erie and Kandey Company, Inc., 19 Ransier Drive, West Seneca 14224 is accepted in the amount of \$338,258.45, which includes Change Order No. 3 (final), a decrease of \$8,741.55, and release of retention is approved; and be it further

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to finalize Contract No. 58PS between the County of Erie and Kandey Company, Inc. in the amount of \$338,258.45 and the release of retention; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Department of Environment and Planning, and one certified copy to Nancy Naples, Erie County Comptroller's Office, Joseph Passafiume, Director of Budget and Management, and Gregory Dudek, Assistant County Attorney.
(4-0) Legislator Ranzenhofer absent.

5. Item Page -2004 (Comm. 5E-32)

COUNTY EXECUTIVE

WHEREAS, the Department of Environment and Planning has determined that to properly protect the sewer at the Cayuga Creek, creek-crossing locations, the sewer must be installed at an increased depth, into rock, instead of soil, as originally designed. Failure to complete the work will result in higher capital cost, as the intent of this sewer is to enable the County to abandon the Carefree Estates Pumping Station which is old and must be replaced; and

WHEREAS, it has been determined it would be more economical to install the Union Road Pumping Station force main creek crossing now under Contract No. 17.

NOW, THEREFORE, BE IT

RESOLVED, that Change Order No. 1 to Contract No. 17 with Milherst Construction, Inc. dated July 9, 2003, be approved subject to approval by the Department of Environment and Planning in an amount not to exceed \$184,997.00; and be it further

RESOVLED, that the Department of Environment and Planning, Division of Sewerage Management is hereby directed to execute and process Change Order No. 1, subject to certification of availability of funds from the project fund balance by the Comptroller's Office; and be it further

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to allocate \$184,997.00 from Sewer Capital, ECSD No. 1, Fund No. 430, Project No. 694 for payment of this change order; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Department of Environment and Planning, one (1) certified copy to the Erie County Comptroller's Office and one (1) certified copy to Gregory Dudek, Assistant County Attorney.

(4-0) Legislator Ranzenhofer absent.

6. Item Page -2004 (Comm. 5E-33)

COUNTY EXECUTIVE

WHEREAS, the New York State Department of Economic Development (NYSDDED) solicited a proposal from Erie County for participation in the Pollution Prevention Technical Assistance Program; and

WHEREAS, in March of 2003, the Erie County Department of Environment and Planning (DEP) developed and submitted a proposal for funding from NYSDDED to implement a Pollution Prevention Technical Assistance Program; and

WHEREAS, on March 28, 2003, the NYSDDED granted approval of the application allocating funding in the amount of \$195,369 over two years for a Pollution Prevention Technical Assistance Program to be implemented in Erie County; and

WHEREAS, the Erie County Legislature passed a resolution (Comm. 18E-9) on November 13, 2003, authorizing the acceptance of the grant funding and establishing a budget for the program; and

WHEREAS, the grant budget established for the Erie County Pollution Prevention Technical Assistance Program includes adequate resources to support both an Environmental Compliance Specialist (JG-12) and a Junior Environmental Education Specialist (JG-7) for the entire two-year grant period.

NOW, THEREFORE BE IT

RESOLVED, that the following positions be created within the Pollution Prevention Technical Assistance Grant Program budget:

Environmental Compliance Specialist (JG-12)
Junior Environmental Education Specialist (JG-7)

and be it further

RESOLVED, that certified copies of this resolution be sent to the Director of Budget, Management and Finance; Laurence K. Rubin, Commissioner of Environment and Planning; Michael Raab, Deputy Commissioner of Environment and Planning; the County Comptroller; the Commissioner of Personnel; and the County Attorney.

(4-0) Legislator Ranzenhofer absent.

RAYMOND K. DUSZA
CHAIRMAN